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United States General Accounting Office

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Fact Sheet for Congressional Requestors

November 1985

FAIR HOUSING

COMPLETED 17.

OMB Review of HUD Requests to Collect Information From the Public

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UNITED STATES GENERAL ACCOUNTING OFFICE
WASHINGTON, D.C. 20548

HUMAN RESOURCES
DIVISION

November 8, 1985

HR5-140

The Honorable Dave Durenberger,
Chairman, and
The Honorable Lawton Chiles
Ranking Minority Member
Subcommittee on Intergovernmental Relations
Senate Committee on Governmental Affairs

The Honorable Charles McC. Mathias, Jr.
Chairman, Subcommittee on Governmental
Efficiency and the District of Columbia
Senate Committee on Governmental Affairs

Your August 13, 1985, letter requested that we review the Office of Management and Budget's (OMB's) series of rejections or limited approvals of agency forms seeking the race, gender, and ethnic background of program beneficiaries and intended beneficiaries. OMB has responsbility under the Paperwork Reduction Act of 1980 for approving agencies' proposals to collect data.

In discussions with your office, we agreed to focus our initial work on five Department of Housing and Urban Development (HUD) proposals for collecting race and gender data listed in your letter. We agreed to review HUD's initial justification for the proposed data collection, the basis for OMB's disapproval, any HUD appeals of the disapprovals, OMB's action on the appeal, and any comments by state or local governments. We also agreed to assess whether OMB's actions and decisions were consistent with applicable standards in the Paperwork Reduction Act and its implementing regulations.

In further discussions with your office, we agreed to give priority to obtaining information on OMB's basis for disapprovals and HUD's reactions to them and provide you results of our work on November 8, 1985. This was to assist the Subcommittee on Intergovernmental Relations with preparations for its hearings on OMB activities under the Paperwork Reduction Act, planned for November 14, 1985. We will meet with your office after the hearings to discuss the need for any additional work.

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Our review was performed at OMB and HUD headquarters. We reviewed OMB and HUD files relating to the five data collection forms proposed by HUD and discussed them with officials from both agencies.

During our review of these five proposed forms, we found that OMB approved one HUD form but deleted a section of it. OMB disapproved the other four forms. Two of these were disapproved because, according to OMB, HUD had not demonstrated a substantial need for collecting the data as frequently (monthly) as proposed. The other two were disapproved because OMB determined that the data to be collected lacked practical utility.

As arranged with your office, unless its contents are announced earlier, we plan no further distribution of this fact sheet until 30 days from its issue date. At that time, we will send copies to interested parties and make copies available to others on request.

Should you need additional information on the contents of this document, please call me on 275-5451.

Sincerely yours,

Franklin A. Curtis

Franklin A. Curtis
Associate Director

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FACT SHEET CONCERNING THE

OFFICE OF MANAGEMENT AND BUDGET'S ACTIONS

ON DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

PROPOSALS FOR COLLECTING DATA

In response to an August 13, 1985, request from the Subcommittee on Intergovernmental Relations and the Subcommittee on Governmental Efficiency and the District of Columbia, Senate Committee on Governmental Affairs, we reviewed the Office of Management and Budget's (OMB's) actions on five Department of Housing and Urban Development (HUD) requests to collect data, including race, gender, and ethnic information, on program beneficiaries and intended beneficiaries.

AUTHORITY

The Paperwork Reduction Act of 1980, which appears at sections 3501-3520 of title 44, United States Code, gives OMB broad authority over agencies' data collection activities. Section 3506 gives each agency responsibility for carrying out its information management activities efficiently, effectively, and economically and for complying with the information policies, principles, standards, and guidelines prescribed by the OMB Director.

Section 3507 requires, in part, that before conducting or sponsoring the collection of information, an agency must submit the proposed information collection request to OMB for review. The act also provides that:

> "The Director shall, within sixty days of receipt of a proposed information collection request, notify the agency involved of the decision to approve or disapprove the request and shall make such decisions publicly available. If the Director determines that a request submitted for review cannot be reviewed within sixty days, the Director may, after notice to the agency involved, extend the review period for an additional thirty days. If the Director does not notify the agency of an extension, denial, or approval within sixty days (or, if the Director has extended the review period for an additional thirty days and does not notify the agency of a denial or approval within the time of the extension), a control number shall be assigned without further delay, the approval may be inferred, and the agency may collect the information for not more than one year."

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OMB's regulations provided that it will reconsider its disapproval upon the written request of the agency head or senior agency official only if the sponsoring agency can provide significant new or additional information relevant to OMB's disapproval.

Section 3508 precludes an agency from collecting information that the Director determines is not necessary for the proper performance of its functions. However, section 3518(e) provides that the act may not be used to affect an agency's substantive policies and programs, including the authority of any federal agency to enforce the civil rights laws.

Section 3505 also establishes goals for reducing federal paperwork burdens imposed on the public. The act directed OMB to set a goal to reduce the paperwork burden by 15 percent by October 1, 1982, and an additional 10 percent the following year and to set goals for further reducing the burdens of federal information collection requests. OMB officials advised us that OMB administratively established goals for reducing the paperwork burden by 6.5 percent for fiscal year 1984 and 3.3 percent for fiscal year 1985.

OMB implementing regulations require that, to obtain OMB approval for an information collection, an agency must demonstrate that it has taken reasonable steps to ensure that:

--The collection is the least burdensome necessary for the proper performance of the agency's functions.

--The collection of information does not duplicate information otherwise accessible to the agency.

--The collection of information has practical utility. (OMB's regulations define "practical utility" as the actual usefulness of information to an agency, taking into account its accuracy, adequacy, and reliability and the agency's ability to process the information in a useful and timely fashion.)

OMB regulations also provide that unless an agency is able to demonstrate that collecting information is necessary to satisfy statutory requirements or other "substantial need," OMB will not approve a proposed collection requiring respondents to report information more often than quarterly.

THE REQUEST

As requested in the Subcommittees' August 13, 1985, letter, our review covered HUD's requests during 1984 and 1985 to collect information on the following forms:

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--Affirmative fair housing marketing plan (form HUD-935.2).

--Monthly sales and rental reports on insured home mortgage programs (forms HUD-935.1 and HUD-935.4).

--Contract and subcontract reporting for multifamily and single-family programs (form HUD-2516).

--Project building identification (form HUD-951).

Our work focused on obtaining information on (1) HUD's initial justification for the proposed data collection, (2) the basis for OMB's disapproval or required changes, (3) HUD's appeal, if any, of OMB's disapproval or required changes, and (4) OMB's actions on the appeal.

On January 30, 1985, OMB approved HUD's request to collect information on the affirmative fair housing marketing plan, but required the deletion of a section of the plan requiring developers to provide anticipated percentages of racial or ethnic mix of occupants or applicants for each project. HUD did not appeal this action.

On September 24, 1984, OMB disapproved HUD's request to collect information on the monthly sales and rental reports on insured home mortgage programs because it said HUD had not demonstrated a substantial need for collecting the data monthly. On November 5, 1984, HUD appealed to OMB to reconsider its decision. The appeal was disapproved, and as of October 1985, HUD was redesigning its forms.

On January 17, 1985, OMB disapproved HUD's request for contract and subcontract reporting for multifamily and single-family programs because the request lacked practical utility. On April 1, 1985, the HUD Secretary advised the OMB Director that the disapproval represented a serious setback for HUD minority business enterprise development programs and the Administration's goals, thus creating a serious policy contradiction that should be resolved. The OMB Director suggested to the HUD Secretary on April 25, 1985, that OMB's and HUD's General Counsels meet to discuss this issue, but they had not met as of October 30, 1985.

On February 6, 1985, OMB disapproved HUD's request for project building identification because the request lacked practical utility. HUD disagreed but did not appeal OMB's decision. HUD officials told us HUD intends to revise another form to obtain the requested data.

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AFFIRMATIVE FAIR HOUSING MARKETING PLANS

Title VIII of the Civil Rights Act of 1968 requires that HUD administer its programs "in a manner affirmatively to further" the objective of providing fair housing throughout the United States. Executive Order 11063, dated November 20, 1962, requires federal agencies to take steps to eliminate discriminatory practices involving federally insured and assisted housing. To aid in carrying out these requirements, HUD requires that affirmative fair housing marketing plans be prepared by sponsors or developers of insured and subsidized multifamily housing projects, single-family subdivisions, and mobile home parks of five or more units, lots, or spaces. The purpose of fair housing marketing is to:

> ". . . achieve a condition in which individuals of similar income levels in the same housing market area have a like range of housing choices available to them regardless of their race, color, religion, sex, or national origin." (24 C.F.R. 200.610)

Marketing plans must be prepared on form HUD-935.2 and must identify the marketing methods that will be used to attain fair housing objectives. OMB had approved that form on November 1, 1982, for use through October 31, 1984. It was the mechanism by which (1) the applicant described the affirmative steps it planned to take to assure for eligible persons of both majority and minority groups equal access to HUD-assisted housing and (2) HUD assessed the potential effectiveness of the methods to be employed by the applicants in marketing their housing.

One part of the form required sponsors or developers to project the anticipated racial/ethnic mix of occupants or applicants by the following categories: white (non-Hispanic), black (non-Hispanic), American Indian or Alaskan Native, Hispanic, or Asian or Pacific Islander. The sponsors or developers had the option of projecting the anticipated applicant or occupant mix or projecting other indicators of effectiveness. The instructions that accompanied the form gave the following guidance to sponsors or developers in estimating anticipated results.

> "Anticipated applicant/occupancy results are a measure of effectiveness of the implementation of the Plan. They are not to be construed in any way as a formal or informal quota. The applicant may choose to estimate anticipated rental applicant mix instead of anticipated occupancy results. If anticipated rental applicant mix is estimated, records must be maintained by the owner/mangement agent showing the race/

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ethnicity/gender of all persons filing applications for units in the structure(s) covered by this Plan. If the applicant elects to use indicators of effectiveness which differ from those described in this part, such indicators shall be described. . . Such indicators should be used to assess the effectiveness of specific aspects of the Affirmative Marketing program, to attract to the housing persons targeted for special outreach, e.g., media advertising, use of minority-owned media, community contracts, etc. The description should include a brief statement of the method to be used to measure effects (e.g., survey of applicants, tenant questionnaire or the like)."

On October 26, 1984, HUD requested OMB's approval to extend the use of form HUD-935.2 until July 1987. HUD's request was accompanied by a justification statement including a description of the uses, purposes, estimated costs to the federal government of preparing and processing, and legal authority for the form. According to the justification, HUD's area offices used the information on the forms during ongoing monitoring activities that begin early in the initial sales or rental period. At that time, HUD area office personnel monitor the actual marketing activities against those that received HUD approval on its form HUD-935.2 to determine whether the plan's objectives are being attained.

On January 30, 1985,[1] OMB notified HUD that form HUD-935.2 was approved for use through July 31, 1987, with the following conditions:

"(1) [the] section . . . anticipated applicant/occupancy results must be deleted. The requirement for this section does not comport with the administration's policy regarding quotas and the collection of data to monitor quota achievement.

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[1]OMB's notification date exceeded the 60-day statutory review period. The OMB desk officer, who is responsible for reviewing HUD's data collection requests, advised us that he orally advised HUD officials that OMB was extending the review period 30 days. According to both the OMB desk officer and HUD's reports management officer, OMB routinely advised HUD orally of any extensions of the 60-day review period. HUD's reports management officer said he did not recall any instance where OMB did not advise HUD of a 30-day extension when OMB's review extended beyond 60 days.

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(2) HUD must provide OMB with a printed version of the form prior to public release."

OMB officials told us OMB required that "anticipated applicant/occupancy results" be deleted because the information lacked practical utility. They explained that the significance of affirmative fair housing marketing plans are commitments of sponsors or developers to undertake specified affirmative marketing techniques and that the plans do not commit sponsors or developers to attaining a "goal" of a specified percentage of minority applicants or occupants. OMB officials said that because the "goals" or "quota" data could not be used, they had no practical utility.

We discussed with HUD's General Counsel the requirement by OMB to delete "anticipated applicant/occupancy results" from form HUD-935.2. He advised us that HUD reexamined the appropriateness of requiring a statement of anticipated occupancy results after the form was submitted to OMB but before it was approved. In a November 26, 1984, memorandum to HUD's Assistant Secretary for Fair Housing and Equal Opportunity, the General Counsel suggested that any reference to anticipated occupancy results be deleted from the form. The memorandum suggested that anticipated composition of the applicant pool be used as the sole indicator of the marketing plan's effectiveness. The memorandum said that the plan's essential requirements are to (1) identify population segments least likely to apply for housing and (2) outline an outreach program to attract those persons. According to the memorandum, numerical "goals" for applicants or occupants are unnecessary to achieve either of these requirements.

By a February 28, 1985, memorandum, the Assistant Secretary advised the General Counsel that he agreed with the General Counsel's proposal to delete occupancy as a basis for the affirmative fair housing marketing plan and to allow sponsors or owners to use alternative assessment measures in an effort to focus on applicant pools rather than occupancy.

According to HUD's reports management officer, HUD did not appeal OMB's condition for approval. HUD revised its form HUD-935.2 to delete the section on anticipated results and gave OMB a printed version of the revised form. By a July 24, 1985, memorandum the Assistant Secretary advised HUD regional administrators and housing commissioners that a premarketing estimate by an owner of anticipated applicant or occupancy pool results was no longer necessary for formulating or evaluating an affirmative fair housing marketing plan.

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The memorandum stated that while, for a specific project, knowledge of the racial and ethnic makeup of the population least likely to apply is critical to the design of effective, appropriate special outreach methods, an estimate of the race and ethnicity of actual applicants is not. According to the memorandum, the focus of monitoring affirmative marketing is on whether specified outreach steps were carried out and, if not, whether good-faith efforts were made to do so. The achievement of a projected applicant or occupant goal should not be a factor on which to base conclusions.

MONTHLY SALES AND RENTAL REPORTS

OMB, on July 17, 1981, authorized HUD to use its monthly sales report for insured home mortgage programs (form HUD-935.1) and its monthly rental report for HUD rental housing programs (form HUD-935.4) through July 31, 1984.

On July 31, 1984, OMB received a request from HUD to extend its approval for use of these two forms. A HUD official[2] said that the extension request was not made earlier because OMB approvals of such requests had been routine in the past and that information could be collected on the previously approved forms until an OMB decision was made on the requests. The OMB desk officer acknowledged this practice was permitted until June 10, 1985, when OMB issued a policy directing that this practice be discontinued.

According to HUD's justification for the extensions, the monthly sales report (form HUD-935.1) was used as a means of monitoring compliance with affirmative marketing programs and evaluating the impact of the programs in HUD-insured single-family housing. The monthly rental report (form HUD-935.4) served as HUD's monthly occupancy report for multifamily insured and subsidized projects (except for low-rent public housing). These two reports provided HUD with racial and ethnic identification of households purchasing or renting housing units. HUD's justification noted that this information allowed HUD to assess the extent to which HUD programs benefited persons protected by civil rights laws. They were used by staff in HUD field offices primarily to monitor purchases and tenant selection activities and were "a key source of information for 'flagging' those housing developments where there is an indication of apparent problems."

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[2]The Director of Fair Housing and Equal Opportunity's Office of Program Standards and Evaluation.

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On September 24, 1984, OMB disapproved HUD's July 31, 1984, request to continue using these two forms. OMB's disapproval said that HUD had not demonstrated a substantial need for collecting the data monthly. As previously discussed, OMB regulations provide that OMB will not approve a proposal to collect information more often than quarterly unless an agency is able to demonstrate that the proposed information collection is necessary to satisfy statutory requirements or other substantial needs (5 C.F.R. 1320.6). This regulatory requirement was published in the Federal Register on March 31, 1983, and became effective May 2, 1983. OMB officials[3] told us that this requirement was not in effect in 1981 when OMB previously approved HUD's use of the two forms. One of the officials said that HUD representatives were orally advised that OMB would have approved use of the two forms on a quarterly basis, if requested.

In his previously mentioned February 28, 1985, memorandum, the Assistant Secretary for Fair Housing and Equal Opportunity advised HUD's General Counsel that HUD was appealing the reporting frequency on the two forms because "(we want monthly and received quarterly approval)." In a memorandum dated November 5, 1984, HUD appealed to OMB to reconsider its disapproval to collect the information on a monthly basis. HUD's appeal stated, in part, that:

> "Less frequent reporting could result in full occupancy without opportunities for minorities and others to apply for the unit, thus preventing any action to modify the AFHM [affirmative fair housing marketing] Plan or to insure it is followed. For example, if the rent-up occurred in January and is not reported to HUD until June (semi-annual), HUD would not be able to monitor the results of the approved HUD-935.2 where the intent is to attract a certain group, i.e., Hispanics to the project; or, specifically, it would be too late for HUD to change/modify the Plan to require increased outreach to that group"

On June 11, 1985, OMB disapproved HUD's appeal. OMB's disapproval letter to HUD stated:

> "We have carefully considered your appeal and continue to believe that a monthly reporting requirement is unnecessary and overly burdensome. The Paperwork Reduction Act's implementing regulations clearly state

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[3]OMB's Deputy Administrator, Office of Information and Regulatory Affairs (OIRA); Chief Branch Officer, OIRA; and Desk Officers, OIRA.

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that unless the agency is able to demonstrate that the collection of information is necessary to satisfy statutory requirements or other substantial need, OMB will not approve a collection that requires respondents to report more frequently than quarterly (5 C.F.R. 1320.6a). Your appeal did not present us with any new evidence to substantiate your need for monthly reporting."

OMB officials told us that as of October 30, 1985, they had not received any HUD resubmissions of requests for OMB review of these two forms. The Office of Fair Housing and Equal Opportunity's Deputy Assistant Secretary for Operations and Management and the Director of the Office of Program Standards and Evaluation told us HUD was revising the forms to require less frequent reporting. They said they believe the forms can be revised to require less frequent reporting and still meet essential HUD monitoring requirements. The Deputy Assistant Secretary said that HUD had completed drafts of the revised forms. Because HUD, as of October 1985, had not made a final decision on the proposed revisions, however, they were not made available to us for review.

By July 24, 1985, memorandum, the Assistant Secretary for Fair Housing and Equal Opportunity advised HUD regional administrators and housing commissioners to instruct developers, owners, and sponsors to discontinue filing the two reports (HUD-935.1 and HUD-935.4). The memorandum also advised HUD field staff that, in the absence of occupancy reports, on-site monitoring should begin early in the marketing process, before tenant and purchaser selection.

CONTRACT AND SUBCONTRACT REPORTING FOR MULTIFAMILY AND SINGLE-FAMILY PROGRAMS

On July 31, 1984, OMB received HUD's request for approval to use previously approved form HUD-2516 for collecting data on contracts and subcontracts awarded to minority businesses under HUD's housing programs. This form had been approved for use in HUD's community planning and development programs, but had not been approved for use in its housing programs. On October 22, 1984, HUD withdraw its request, and resubmitted it the following day, October 23, 1984.

The OMB desk officer responsible for this request told us that OMB had tentatively decided to disapprove HUD's request because it lacked practical utility. He said that because HUD disagreed, he suggested orally to HUD officials that the request be withdrawn and resubmitted to allow senior officials from both agencies to meet and discuss their differences before the

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statutory time limit for OMB's review expired. He said that a meeting was held, but that senior HUD and OMB officials did not attend because of other priorities and the staff from the two agencies who attended the meeting could not resolve the differences.

The basis for HUD's July 31, 1984, request was Executive Order 11625, dated October 13, 1971, requiring all federal departments and agencies to increase minority enterprise effort, and Executive Order 12432, dated July 14, 1983, requiring each federal agency to develop and implement incentive techniques to encourage greater minority business subcontracting by federal prime contractors.

HUD's justification for the proposed new collection on a quarterly basis stated that

> "The collection of data on the monies spent by HUD on insured or uninsured subsidized programs, including MBE [Minority Business Enterprise] activities has not been collected or available to HUD. HUD, therefore, must establish a method of collection in these areas to make it possible to monitor and evaluate MBE activities against MBE goals. This report will be prepared manually by the borrowers, sponsors, or project managers for the purpose of providing data on expended dollars and to provide verifiable MBE data which are complete, accurate, and timely. The information summarized from this report will enable HUD to monitor and evaluate MBE activities against the total program activity and the designated MBE goals. The consequence of not collecting this information means that HUD could not establish meaningful MBE goals nor evaluate MBE performance against these goals."

On January 17, 1985, OMB denied HUD's request to expand use of form HUD-2516 to its housing programs. OMB's denial stated that

> "This request is not approved because it lacks practical utility. The proposed action is counter to the intent of Executive Order 12432, which specified that grantees were to be encouraged, not pressured or compelled, to utilize minority business. In addition, the breakdown of MBE data by programs is not necessary to ensure that MBEs are participating in HUD programs."

On April 1, 1985, the HUD Secretary wrote to the OMB Director appealing OMB's disapproval of the July 31, 1984,

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proposal to expand use of form HUD-2516. The Secretary stated that:

> "This disapproval represents a serious setback for HUD's MBE Development Program and the goals of this Administration. . . As a consequence, the collection of MBE data is essential if HUD and other Federal agencies are to provide the President and others with accurate and reliable data on whether his goals are being achieved.
>
> "Should this action be permitted to stand, monitoring and reporting on more than 95 percent of over a billion dollars of MBE contracting activity in HUD alone will be prohibited.
>
> "I believe a serious policy contradiction has been created which must be addressed."

The Secretary asked to meet with the OMB Director to discuss ways in which the conflict could be resolved.

The OMB Director's April 25, 1985, written reply to the HUD Secretary said that addressing this matter would necessarily involve resolving several legal issues before the broader policy issues can be addressed. He suggested that OMB's and HUD's General Counsels meet to discuss the legal issues. According to an OMB assistant general counsel and desk officer, the General Counsels had not met to discuss these issues as of October 30, 1985.

OMB's approval for HUD to use form HUD-2516 in HUD's community planning and development programs expired on March 31, 1985. OMB received a HUD request on September 24, 1985, for OMB to approve reinstatement of the expired form. A HUD official[4] said that HUD delayed its submission for reapproval of the form because OMB's January 7, 1985, disapproval of the extended use of the form for housing programs had created doubt about whether the form would be reapproved for the community planning and development programs. He said that HUD had not advised respondents to discontinue submitting the forms and that HUD continues to receive the forms from many respondents for the community planning and development programs. As of October 30, 1985, an OMB official said that this submission for reapproval was pending.

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[4]The Reports Mangement Liaison officer for HUD's Community Planning and Development Program.

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PROJECT BUILDING IDENTIFICATION

On November 8, 1984, OMB received a HUD request for approval of a HUD Project Building Identifier and Address Input Form (form HUD-951), which represented a new data collection activity. HUD's written justification for the form stated that it must collect information regarding the racial, ethnic, and gender characteristics of HUD-assisted and public housing tenants and their location within projects to comply with title VI of the Civil Rights Act of 1964, title VIII of the Civil Rights Act of 1968, and Executive Order 11063. These requirements make HUD responsible for determining that HUD-assisted and public housing programs are operated in a nondiscriminatory manner.

HUD proposed form HUD-951 as a one-time collection of addresses and associated building and site identification codes to prepare a permanent file for subsequent matching with tenant characteristics data to be collected separately. HUD's justification for the form HUD-951 stated that:

> "HUD's civil rights evaluations of program operations are dependent upon the ability to match neighborhood demographics at the Census Tract Enumeration District Level. This requires knowing instances where two or more buildings within a single project share a common site, even though the street address of each such building is different. Because building addresses and site identifiers are not in any Departmental data bases, the Department's compliance and enforcement program is severely hampered. HUD wishes to collect these data to build a permanent file that can be matched with tenant characteristics and census information . . . If HUD is unable to conduct this one time data collection, the Department will have to invest considerable resources to identify an alternate system to establish locational data for civil rights monitoring and compliance purposes."

OMB disapproved form HUD-951 on February 6, 1985, based on its conclusion that ". . . the collection of this data is not necessary because it is currently collected on a project by project basis and further identification would lack practical utility."

The OMB desk officer who worked on this request advised us that HUD area offices are aware of the racial make-up of neighborhoods involved in HUD-assisted housing programs and they should conduct "spot checks" to determine discriminatory assignments of tenants instead of imposing additional reporting burdens on private owners and managers of HUD-assisted housing

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projects and public housing agencies. He also said that building identification, as proposed in form HUD-951, was ineffective because segregation could occur on a floor-by-floor basis or by sections within a building, and such actions would not be detected by data collected under the proposed form.

In an April 1, 1985, letter to the Department of Justice's Assistant Attorney General of the Civil Rights Division, HUD's General Counsel defended HUD's justification of the practical utility of the proposed form HUD-951 and requested that the Assistant Attorney General review the matter within his coordination purview under Title VI of the Civil Rights Act of 1964. The letter stated that although OMB had approved a HUD form for collecting racial, ethnic, or gender characteristics of HUD-assisted tenants, the data collected were inadequate to identify possible segregation and other discriminatory assignment of tenants in buildings or in separate sites within single assisted or public housing projects since the forms were identified only by project, not by building or site. The letter cited examples of such segregation and discriminatory assignment of tenants that would not be identified without the data requested in the proposed form HUD-951.

On April 15, 1985, in his reply to HUD's General Counsel, the Assistant Attorney General for Civil Rights stated that:

> "I certainly do not object to the proposed Form 951 and do not believe that Title VI forbids the collection of the data that you described to me in your letter. I am prepared to so inform OMB if you wish. On the other hand, I am not of the view that Title VI compels the collection of the particularized data that HUD is seeking. Thus, if OMB objects to Form 951 because it believes HUD is forbidden by Title VI to collect the data it seeks, I can advise OMB that such an objection is misplaced. If, however, OMB objects to Form 951 as inappropriate for reasons such as paperwork reduction principles, I am not prepared to tell OMB that Title VI compels the approval of that particular form."

OMB officials said HUD had not appealed its disapproval. HUD officials told us that HUD plans to include a data element for identifying buildings on a previously approved form HUD-949. As of October 30, 1985, the expansion of this form to include the additional data element had not been submitted to OMB for its approval.

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